

6 SEP 1978

MEMORANDUM FOR: See Distribution List

STAT FROM :
Senior DDA Focal Point Officer

SUBJECT : Preparation of Security Classification Guides
in Compliance With Executive Order 12065

REFERENCE : Memorandum From ADDA to DDA Office Directors and
Staff Chiefs; Subject: Planning for Implementation
of E.O. 12065, dated 1 September 1978

1. The purpose of this memorandum is to inform you of action taken thus far within the Agency to implement certain parts of Executive Order 12065, and to outline the part that you will play in the implementation.

2. On 26 July 1978 representatives of the Agency Directorates, the National Foreign Assessment Center, and the Office of General Counsel approved the Action Plan for DDA Assigned Tasks Associated With the Implementation of Executive Order 12065. Mr. Michael J. Malanick represented the DDA. Among other assignments, the Action Plan established a Task Force on Classification/Declassification/Mandatory Review, to develop security classification guides on these subjects as required by the Executive Order. All Directorates, the NFAC, OGC, IPS, OS, and RAB are represented on the Task Force, which is chaired by the Chief, Classification Review Group (CRG), ISAS/DDA. I represent the DDA as the Senior Focal Point Officer for classification and declassification.

3. The approved Action Plan also provides for use of the "system" previously established for the development and approval of Agency declassification guidelines. The "system" consisted of designating a Focal Point Officer (FPO) in each DDA component; the declassification guidelines were then developed in consultation with, and coordination through the component FPOs.

4. A memorandum from the ADDA initiating requirements in this Directorate was sent to all DDA Office Directors and Staff Chiefs on 1 September 1978. Transmitted with it was a 23 August 1978 memorandum from the ADDA to the two other Deputy Directors, the Director of NFAC, and the OGC which outlined, inter alia, the conceptual Task Force approach to the preparation of classification guides required by the Executive Order and its implementing directive, together with an initial draft Agency Classification Guide prepared by the Task Force (Tab A).

Note that Para. 3.a. of the 23 August memo and Para. 4 of the 1 September memo establish an Agency-wide target date of 18 September for response to this initial draft of the Agency Classification Guide. It is essential that your response be as thorough and complete as possible to avoid tighter deadlines in coordinating subsequent drafts of the Guide.

5. In drafting the Agency Classification Guide the Task Force was fully aware of the great diversity of subjects, geographic areas, and activities with which the Agency is concerned, as well as the varied problems and concerns of its individual components. Accordingly, it does not presume that the Guide is complete or that it fully represents the interests of all Agency components. Rather, it contains broad categories of information meriting classification, under which the individual components may list subcategories of information reflecting the requirements of the individual offices. The Guide format as presented is tentative and may be modified.

6. For each subcategory of information developed under each major category in the Guide the individual offices must determine the level of classification to be applied to each, and the duration of the classification. Any extension of classification beyond six years must be justified. For your information a suggested listing of such reasons is appended as Tab B.

7. In its final form the Agency Classification Guide will be part of an implementing regulation and will contain prefatory comments defining the authority to classify, the levels of classification, the basis for issuing Classification Guides, the limitations and prohibitions on classification, a statement on how, when, and why foreign government information will be treated differently, a statement on derivative classification, and perhaps other information.

8. As the FPO for your component you are requested to do the following:

a. Review the draft Agency Classification Guide (Tab A) to insure that the items therein provide for all categories of information that are subject to classification in your component. Bear in mind that the categories were deliberately prepared in general terms, to provide an umbrella under which the more specific subcategories of information for each office can be fitted.

b. If you feel that any category does not meet your needs, then propose additions.

c. Under each of the broad categories, list subcategories of information to be classified which will more specifically meet the needs of your component. It is necessary that such statements be as inclusive as possible and that they be concise, to avoid an unnecessarily lengthy or unwieldy Guide. For each subcategory also cite the level of classification to be applied to each, the duration of the classification, and the reason if the classification is extended beyond six years. Please follow the format shown in Tab C.

d. The categories of information in Tab A are unclassified. If any subcategory that you prepare merits classification indicate the level of classification at the end of each paragraph.

e. Review the suggested listing of reasons for extending classification in Tab B and provide comments and any changes you deem necessary.

f. Obtain at least the tentative approval of your component chief before submitting your subcategories and associated information.

g. Because of the time constraints and the extensive coordination that will be required, your total contribution outlined in this paragraph is requested by 18 September.

9. In approaching this task you should bear in mind that the Executive Order requires that the Guide be prepared in such a manner that it "will facilitate the identification and uniform classification of information"; the DCI and the Deputy Director for Administration will approve the final Agency Classification Guide; and that the Executive Order encourages challenges to original classification by any recipient of classified information.

10. If you have any questions or if I can be of help in any manner, please call me on [redacted] and we can arrange to get together individually or perhaps with a larger group. It is essential that your contribution be received by 18 September, as discussed above.

[redacted]

Attachments: a/s

Distribution:

1 - OC,
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2 - File

DRAFT OF AGENCY CLASSIFICATION GUIDE

31 August 1978

1-3 Classification Requirements

1-301(a) Military plans, weapons or operations

(1) Information derived from or through intelligence sources or methods on foreign intentions, capabilities, or activities which pose a potential threat to United States national security interests or to those of allied or other friendly governments.

(2) Information which could reveal the extent or degree of success achieved by the United States in the collection of information on and assessment of foreign military plans, weapons, capabilities or operations.

(3) Information that could reveal defense plans or posture of the United States, its allies, or other friendly countries; or enable a foreign nation or entity to develop countermeasures to such plans or posture.

(4) Information that could reveal the capabilities, vulnerabilities or deployment of United States weapons or weapons systems.

1-301(b) Foreign Government Information

(1) Information provided to the United States by any element of a foreign government or international organization of governments, with the explicit or implicit understanding that the information is furnished in confidence.

(2) Information produced by the United States pursuant to a confidential agreement with a foreign government or governments or international organization of governments, or with any element thereof, or produced jointly with a foreign government or governments under such an agreement.

(3) Information revealing the existence of joint intelligence activities, facilities, or the nature thereof in foreign countries.

1-301(c) Intelligence activities, sources or methods

(1) Information which could reveal or identify a present, past or prospective intelligence source, whether a person, organization, group, technical system, mechanism, device, or any other means or instrument that provides, has provided, or is being developed to provide foreign intelligence or foreign counterintelligence.

(2) Information which could reveal or identify a present, past or prospective intelligence method, procedure, mode, technique, or requirement used or being developed to acquire, transmit, analyze, correlate, evaluate, or process foreign intelligence or foreign counterintelligence, or to support an intelligence source, operation or activity.

(3) Information not officially released which could disclose the organizational structure of the Central Intelligence Agency; the numbers and assignments of CIA personnel; the size and composition of the CIA budget, including internal and external funding; logistical and associated support activities and services, security procedures, techniques, and activities including those applicable to the fields of communications and data processing; or other quantitative or qualitative data which could reveal or indicate the nature, objectives, requirements, priorities, scope or thrust of Agency activities, including missions, functions, and locations of CIA components and/or installations.

(4) Information that could disclose the identities of certain CIA personnel, or of code designations used by CIA or other agencies to protect such personnel or intelligence sources, methods, or activities.

(5) Information that could reveal the existence, nature, scope or effect of, or identify personnel covered under, agreements between the CIA and other agencies of the United States Government, elements of foreign governments, or other entities.

(6) Information pertaining to contractual relationships with private individuals, commercial concerns, or non-governmental institutions and entities when such a relationship involves a specific intelligence interest, or reveals the extent or depth of knowledge or technical expertise possessed by CIA, or when disclosure of the relationship could jeopardize the contractor's willingness or ability to provide services to CIA.

(7) Information pertaining to intelligence related methodologies, techniques, formulae, equipment, programs or models, including computer simulations, ranging from initial requirements through planning, source acquisition, contract initiation, research, design and testing, to production, personnel training, and operational use.

(8) Information which could identify specific research, procedures or data used by CIA in the acquisition and processing of intelligence, or the production of finished intelligence, when such identification could reveal the particular intelligence interest of the CIA, the value of the intelligence, or the extent of the CIA's knowledge of a particular subject.

(9) Information that could disclose CIA criteria and procedures for the handling of critical intelligence which could affect the

national security of the United States or of its allies and which requires the immediate attention of senior Agency officials.

(10) Information that could reveal, jeopardize, or compromise a cryptographic device, procedure or system, or intelligence data resulting from the employment of such a device, procedure or system, or the sites, facilities, systems, and technologies used, or proposed for use, in the collection, interpretation, evaluation, or dissemination of communications or signals intelligence.

(11) Information pertaining to training in intelligence sources, methods, and activities provided under the auspices of CIA to individuals, organizations or groups which could reveal or identify equipment, materials, training sites, methods and techniques of instruction, or the identities of students and instructors.

(12) Information which could disclose CIA policies and procedures used for personnel recruitment, assessment, selection, training, assignment, and evaluation.

1-301(d) Foreign relations or foreign activities of the United States

(1) Information which, if disclosed, could lead to foreign political, economic or military action against the United States or other friendly nations.

(2) Information which, if revealed, could create, stimulate, or increase international tensions in such manner as to impair the conduct of United States foreign policies.

(3) Information which, if revealed, could deprive the United States of a diplomatic or economic advantage related to the national security,

or which could weaken the position of the United States or its allies in international negotiations, or adversely affect other activities pertinent to the resolution or avoidance of international conflicts or differences having national security significance.

(4) Information that could disclose plans prepared, under preparation, or contemplated by officials of the United States to meet diplomatic or other contingencies affecting the security of the United States.

(5) Information that could identify or otherwise disclose activities conducted abroad in support of national foreign policy objectives, and planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, or information that could reveal support provided to such activities.

(6) Information which could reveal to a foreign nation, organization or group that the United States has obtained, or seeks to obtain, certain data or materials from or concerning such a nation, organization or group, and which could thereby adversely affect United States relations with or activities in a foreign country.

(7) Information which, if disclosed, could lead to political or economic instability, or to civil disorder or unrest, in a foreign country or could jeopardize the lives, liberty or property of United States citizens residing in or visiting such a country, or could endanger United States Government personnel or installations there.

1-301(e) Scientific, technological, or economic information leading to the national security
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(1) Information which provides the United States with a scientific, technical, engineering, economic or intelligence advantage of value to the national security,

(2) Information concerning CIA research of a scientific or technical nature leading to the development of special techniques, procedures, equipment and equipment configurations, systems, and their use in the collection or production of foreign intelligence or foreign counterintelligence.

(3) Information dealing with research and development, operational planning, deployment, and/or use of scientific and technical devices, equipment or techniques used for national security purposes by the CIA jointly with, or through the cooperation of, other United States and/or foreign governmental entities.

1-301(f) United States Government programs for safeguarding nuclear materials or facilities

(1) Information that could reveal, jeopardize, compromise, or reduce the effectiveness of United States Government programs to safeguard nuclear materials, techniques, capabilities or facilities.

(2) Information on foreign nuclear programs, activities, capabilities, technologies, facilities, plans and intentions, weapons and their deployment which could disclose the nature, scope or effectiveness of United States intelligence efforts to monitor nuclear developments abroad, or could cause such efforts to fail or to be restricted in a manner detrimental to national security.

1-301(g) Other categories of information which are related to national security and which require protection against unauthorized disclosure as determined by the President, by a person designated by the President pursuant to Section 1-201, or by an agency head

(1) Information, documents or materials specifically protected by statute or treaty.

(2) Information contained in a compilation of otherwise unclassified material or data which, in the aggregate or by reason of particular arrangement or juxtaposition, may require classification as national security information when assembled and compiled.

(3) Information which could disclose the nature or substance of confidential advice given to the President of the United States or to the National Security Council by the Director of Central Intelligence.

(4) Information that could reveal the nature or substance of deliberations within the Executive Branch of the United States Government involving policy formulations or other matters relevant to the national security and participated in, or contributed to, by the Director of Central Intelligence or his designated representatives.

(5) Information concerning discussions, negotiations, agreements or relationships between the Director of Central Intelligence or the Central Intelligence Agency and other departments or agencies of the Executive Branch, or the Members, committees, and/or staffs of the United States Senate or House of Representatives, or independent establishments or individuals, on matters pertaining to the national security including exchanges of information on, or assessments of, the potential effects of proposed or pending legislation on the missions, functions or activities of the DCI or the CIA

(6) Information which could be expected to place an individual in immediate jeopardy.

JUSTIFICATION FOR EXTENSION OF CLASSIFICATION

Only officials with Top Secret classification authority may classify information for more than six years from the date of the original classification. This authority shall be exercised sparingly and when used, a declassification date or event, or a date for review of the information must be established. This date or event shall be as early as national security permits but no longer than twenty years after original classification, except that for foreign government information the date or event may be up to thirty years after original classification. (Sec. 1-402, E.O. 12065.)

Classification may be extended beyond six years for one or more of the following reasons:

1. The information is "foreign government information" as defined in this Agency Classification Guide.
2. The information is specifically protected by statute or treaty.
3. Continued protection of the information is essential to the national security because it reveals intelligence sources or methods which, if lost, cannot be regained or replaced, or whose disclosure would cause identifiable damage to the national security.
4. The information pertains to cryptography and thus its continued protection is absolutely essential to the national security.
5. The information could reveal vulnerability or capability data, the unauthorized disclosure of which can reasonably be expected to result in negating or nullifying the effectiveness of a system, installation or project important to the national security.
6. The information concerns plans, operations, or activities important to national security, the unauthorized disclosure of which can reasonably be expected to result in negating or nullifying the effectiveness of the plan, operation or activity, or impeding its orderly implementation.
7. The information concerns foreign relations matters, the continued protection of which is essential to the national security.
8. Disclosure of the information would place in immediate jeopardy a person important to the national security.

FORMAT FOR SUBMITTING SUBCATEGORIES OF
CLASSIFICATION GUIDES

(The following are general categories of classification guides contained in Tab A, Agency Classification Guide, and are used here for illustrative purposes. Follow this format in submitting your subcategory(ies), the level of classification to be assigned to each subcategory, the duration of classification, and the reason if classification extends beyond six years.)

1-301(c) Intelligence activities, sources and methods

(1) Information which could reveal or identify a present, past or prospective intelligence source, whether a person, organization, group, technical system, mechanism, device, or any other means or instrument that provides, has provided, or is being developed to provide foreign intelligence or foreign counterintelligence.

(aa) (First subcategory.) _____

Level of Classification: _____ TS, S, or C

Duration of Classification: _____ (No. of Years)

Justification for Extension
Beyond Six Years: _____

(bb) (Second subcategory, if any.)

(Level, duration, and reason, as above.)

(2) Information which could reveal or identify a present, past or prospective intelligence method, procedure, mode, technique, or requirement used or being developed to acquire, transmit, analyze, evaluate, or process foreign intelligence or foreign counterintelligence, or to support an intelligence source, operation or activity.

(Same as (aa) and (bb) above.)

*Acts of 26 Feb 1853 and
5 April 1866 provided penalties
in money (not exceeding \$2,000) and
imprisonment (not exceeding 3 years)
for stealing, destroying, altering,
forging, and counterfeiting a
public record.*

HR ☐ APPLIES

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3. The requirements for disposal of records are contained in HR ☐ and 44 U.S.C. 33. Criminal penalties for willful conversion of Federal Records are contained in 18 U.S.C. 641, and for concealment or mutilation of records by any public official, in 18 U.S.C. 2071.

18 U.S.C. 641 - Willful Conversion of
Federal Records - 10 years, \$10,000
or both

18 U.S.C. 2071 - Concealment or
Mutilation of Records by any Public
Office - 3 years, \$2,000, or both

CHAPTER 101—RECORDS AND REPORTS

Sec.

- 2071. Concealment, removal, or mutilation generally.
- 2072. False crop reports.
- 2073. False entries and reports of moneys or securities.
- 2074. False weather reports.
- 2075. Officer failing to make returns or reports.
- 2076. Clerk of United States District Court.

Cross References

War contract records, see section 443 of this title.

§ 2071. Concealment, removal, or mutilation generally

(a) Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined not more than \$2,000 or imprisoned not more than three years, or both.

(b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined not more than \$2,000 or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States.

June 25, 1948, c. 645, 62 Stat. 795.

Historical and Revision Notes

Reviser's Note. Based on Title 18, U.S.C., 1940 ed., §§ 234, 235 (Mar. 4, 1909, c. 321, §§ 128, 129, 35 Stat. 1111, 1112 [Derived from R.S. §§ 5403 and 5408]).

Reference in subsection (a) to intent to steal was omitted as covered by section 641 of this title.

Section consolidates sections 234 and 235 of Title 18, U.S.C., 1940 ed. Minor changes were made in phraseology. 80th Congress House Report No. 304.

Cross References

Disqualification from holding any office of honor, trust, or profit additional grounds for, see sections 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

Theft of—

Court record or process, see section 1506 of this title.

Records, see section 641 of this title.

War contract records, see section 443 of this title.

Ch. 31 EMBEZZLEMENT AND THEFT 18 § 641

Bankruptcy—

Liability for embezzlement or misappropriation not discharged, see section 35 of Title 11, Bankruptcy.

Trustee, receiver or officer, embezzlement of property belonging to estate of bankrupt, see section 153 of this title.

Coins, embezzlement of metals, see section 332 of this title.

Commodity Credit Corporation, embezzlement or stealing money, etc., see section 714m of Title 15, Commerce and Trade.

Consular officers as guilty of embezzlement, see sections 1179, 1108 of Title 22, Foreign Relations and Intercourse.

Evidence—

Account as evidence of embezzlement, see section 3497 of this title.

Refusal to make and file accountings or reports concerning money or property of World War veterans as evidence of embezzlement, see section 3501 of Title 38, Veterans' Benefits.

Refusal to pay as evidence of embezzlement, see section 3487 of this title.

Extradition of fugitives from country under control of United States, see section 3185 of this title.

Foreign banking corporations, embezzlement of moneys, etc., by officers, employees and receivers, see section 630 of Title 12, Banks and Banking.

India—

Jurisdiction of offenses committed in Indian country, see section 3242 of this title.

Larceny in Indian country, see section 1153 of this title.

Investment companies, embezzlement or stealing moneys, see section 80a-36 of Title 15, Commerce and Trade.

Merchant seamen, punishment for embezzlement of ship's stores or cargo, see section 701 of Title 46, Shipping.

Officers of United States, civil, military, or naval, embezzlement of public or private money or property as misdemeanor, see section 210 of Title 50, War and National Defense.

Postal Service—

Letters or other correspondence, embezzlement of, see section 1702 of this title.

Letters or other correspondence, embezzlement or stealing by Postmaster or Postal Service employee, see section 1709 of this title.

Letters or other correspondence, embezzlement or stealing, or receipt of embezzled or stolen mail matter, see section 1708 of this title.

Mail keys or locks, embezzlement or stealing of, see section 1704 of this title.

Misappropriation of postal funds as embezzlement, see section 1711 of this title.

Newspapers, stealing by Postmaster or Postal Service employee, see section 1710 of this title.

Post office, breaking into with intent to commit larceny, see section 2115 of this title.

Postal savings, embezzlement laws as applicable, see section 1691 of this title.

Property used by United States Postal Service, embezzlement or stealing of, see section 1707 of this title.

Robbery and burglary, see section 2111 et seq. of this title.

Stolen property, see section 2311 et seq. of this title.

Tennessee Valley Authority, application of penal statutes relating to larceny or embezzlement of public moneys or property of United States, see section 831t of Title 16, Conservation.

Vessel's owner, limitation of liability for embezzlement of merchandise, see section 183 et seq. of Title 46, Shipping.

§ 641. Public money, property or records

Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

18 § 641

CRIMES

Pt. 1

Ch. 31

Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; but if the value of such property does not exceed the sum of \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

The word "value" means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

June 25, 1948, c. 645, 62 Stat. 725.

Historical and Revision Notes

Reviser's Note. Based on Title 18, U. S.C., 1940 ed., §§ 82, 87, 100, 101 (Mar. 4, 1909, c. 321, §§ 35, 36, 47, 48, 35 Stat. 1095, 1096-1098; Oct. 23, 1918, c. 194, 40 Stat. 1015; June 18, 1934, c. 587, 48 Stat. 996; Apr. 4, 1938, c. 69, 52 Stat. 197; Nov. 22, 1943, c. 302, 57 Stat. 591).

Section consolidates sections 82, 87, 100, and 101 of Title 18, U.S.C., 1940 ed. Changes necessary to effect the consolidation were made. Words "or shall willfully injure or commit any depredation against" were taken from said section 82 so as to confine it to embezzlement or theft.

The quoted language, rephrased in the present tense, appears in section 1361 of this title.

Words "in a jail" which followed "imprisonment" and preceded "for not more than one year" in said section 82, were omitted. (See reviser's note under section 1 of this title.)

Language relating to receiving stolen property is from said section 101.

Words "or aid in concealing" were omitted as unnecessary in view of definitive section 2 of this title. Procedural language at end of said section 101 "and such person may be tried either before or after the conviction of the principal offender" was transferred to and rephrased in section 3435 of this title.

Words "or any corporation in which the United States of America is a stockholder" in said section 82 were omitted as unnecessary in view of definition of "agency" in section 6 of this title.

The provisions for fine of not more than \$1,000 or imprisonment of not more than 1 year for an offense involving \$100 or less and for fine of not more than \$10,000 or imprisonment of not more than 10 years, or both, for an offense involving a greater amount were written into this section as more in conformity with the later congressional policy, expressed in sections 82 and 87 of Title 18, U.S.C., 1940 ed., than the nongraduated penalties of sections 100 and 101 of said Title 18.

Since the purchasing power of the dollar is less than it was when \$50 was the figure which determined whether larceny was petit larceny or grand larceny, the sum \$100 was substituted as more consistent with modern values.

The meaning of "value" in the last paragraph of the revised section is written to conform with that provided in section 2311 of this title by inserting the words "face, par, or".

This section incorporates the recommendation of Paul W. Hyatt, president, board of commissioners of the Idaho State Bar Association, that sections 82 and 100 of Title 18, U.S.C., 1940 ed., be combined and simplified.

Also, with respect to section 101 of Title 18, U.S.C. 1940 ed., this section means the suggestion of P. F. Herrick, United States attorney for Puerto Rico, that the punishment provision of said section be amended to make the offense a misdemeanor where the amount involved is \$50 or less.

Changes were made in phraseology.

Cross References

Application of general penal statutes relating to larceny, embezzlement, or conversion of public moneys or property of United States, to moneys and property of Saint Lawrence Seaway Development Corporation, see section 900 of Title 33, Navigation and Navigable Waters.

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Chapter 101—Fed. Property Management Regulations

§ 101-11.406-7

... continuing authorization and will
... in all instances where the types
... records described in the request will
... continue to accumulate.

[29 F.R. 21032, Nov. 3, 1971]

§ 101-11.406-3 Certification.

The signing of Standard Form 115 by
... properly authorized agency representa-
... shall constitute certification that
... records described do not have, or
... not have after the expiration of the
... retention period indicated, sufficient ad-
... ministrative, legal, or fiscal value to the
... agency itself to warrant further reten-
... Appraisal by the National Archives
... and Records Service will be limited to
... review for possible value to other agen-
... of the Government, and for re-
... search or historical value.

§ 101-11.406-4 General Accounting Of- ... face clearance.

Each Federal agency shall obtain the
... approval of the Comptroller General for
... the disposal of certain classes of records
... relating to claims and demands by or
... against the Government or to accounts
... in which the Government is concerned.
... Such approval shall be obtained either
... prior to or concurrently with the sub-
... mission of the disposal request to the
... National Archives and Records Service
... (44 U.S.C. 3309).

[29 F.R. 21032, Nov. 3, 1971]

§ 101-11.406-5 Approval of requests ... for disposal authority.

After review by the National Archives
... and Records Service, the Archivist of the
... United States will determine whether the
... records are disposable. If the Archivist
... approves the disposal request, the Na-
... tional Archives and Records Service will
... notify the agency by returning one copy
... of completed Standard Form 115. This
... shall constitute the disposal authoriza-
... tion, which is mandatory. (For extension
... of retention periods or withdrawal of
... disposal authority, see §§ 101-11.406-7
... and 101-11.406-8.) Such authorized dis-
... posal shall be accomplished as prescribed
... in § 101-11.408. Agencies shall forward 16
... copies of all formally published disposal
... authorities to the National Archives and
... Records Service (NC).

[29 F.R. 21032, Nov. 3, 1971]

§ 101-11.406-6 Mutilation and destruc- ... tion of records.

(a) The Administrator and the heads
... of Federal agencies are responsible for
... preventing the unlawful removal, defac-
... ing, alteration, or destruction of records
... (44 U.S.C. 2905, 3106).

(b) The penalties for the willful and
... unlawful destruction, damage, or aliena-
... tion of Federal records are contained
... in the U.S. Criminal Code (18 U.S.C.
... 2071).

(c) Private files are not governed by
... these provisions.

[29 F.R. 16807, Dec. 8, 1964, as amended at
... 36 F.R. 21032, Nov. 3, 1971]

§ 101-11.406-7 Extension of retention ... periods.

(a) Approved agency records control
... schedules are mandatory (44 U.S.C.
... 3303a(b)). Records shall not be main-
... tained for a period of time longer than
... that specified in agency records control
... schedules without the prior written ap-
... proval of the National Archives and Rec-
... ords Service (NC).

(b) Upon submission of evidence of
... need, NARS may empower a Federal
... agency to retain beyond their specified
... retention period records authorized for
... disposal (44 U.S.C. 2909). Such exten-
... sions of retention periods will be granted
... on the basis of the continuing admin-
... istrative, legal, or fiscal value of the re-
... cords to Government operations.

(c) The head of a Federal agency may
... request an extension of the retention pe-
... riod based upon an evidence of need for
... records authorized for disposal. Approval
... shall be requested by addressing a letter
... to the General Services Administration
... (NC), Washington, DC 20408. The re-
... quest shall include:

(1) A concise description of the rec-
... ords for which an extension of retention
... period is requested;

(2) A complete citation to the specific
... provisions of the agency records control
... schedule currently governing disposal of
... the records;

(3) A statement of the period of time
... that the records will continue to be of
... use to the agency;

(4) A statement providing evidence of
... the specific need for the records, includ-
... ing information on their continuing ad-

CONFIDENTIAL

SECURITY

21. CARE AND USE OF OFFICIAL DATA. All information, classified or unclassified, received, compiled or created by the Central Intelligence Agency (except personal copies of unclassified personnel papers) is official data and is the property of the United States Government.

a. POLICY

- (1) All employees are prohibited from using official data for any purpose other than in the performance of their official duties for or on behalf of the Agency. Official data is not to be held in personal files or set aside for personal use or benefit.
- (2) Official data is not to be copied or removed from the files of the Agency for release outside the Agency except by those officials authorized through chain of command by the Director of Central Intelligence
- (3) Any employee who is served with a subpoena which may require the disclosure of official data to a court, the Congress, or a committee of the Congress will promptly inform the General Counsel of the serving of the subpoena, the nature of the information sought, and any circumstances which may bear upon the desirability of making available the official data, so that the General Counsel may advise the Director.
- (4) When not in use, official data must be kept in storage facilities which have been approved by the Director of Security. Consequently, documents which contain official data are not to be taken home or stored in private residences unless the use of an approved, secure facility has been authorized in advance by the Director of Security.
- (5) In addition to the prohibition against unauthorized disclosure of official data outside the Agency, internal disclosure of official data is limited to those employees whose duties require access to it. Employees are not to disclose official data to those who do not need to know it, nor are they to try to obtain official data they do not need to know.

b. RESPONSIBILITIES

- (1) Each individual employed by the Central Intelligence Agency is responsible for the secure handling of official data and for protecting it against unauthorized disclosure. Termination of Agency employment will not affect these responsibilities.
- (2) The Director of Personnel is to ensure that all personnel processed through headquarters report to the Office of Security to read this regulation and the statutes referred to in subparagraph c below before entering on duty or separating from the Agency.
- (3) Chiefs of [] installations are to ensure that all [] personnel not processed through headquarters read this regulation and the statutes referred to in subparagraph c before entering on duty or separating from the Agency.
- (4) Any authorized representative of CIA who negotiates with individuals or organizations for services is to ensure that the appropriate statutory provisions are incorporated in the Secrecy Agreement or contract. The in-

Approved For Release 2006/04/19 : CIA-RDP86-00674R000300080022-5

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SECURITY

- e. **STATUTORY REFERENCES.** Sections 793, 794, and 798, Title 18 of United States Code prohibit certain activities with respect to defense information and provide penalties for violation. Section 793 provides generally that persons who lose defense information without reporting such loss, or gather or transmit defense information with the intent or with reason to believe such information will be used to the injury of the United States or to the advantage of any foreign nation are subject to a fine of \$10,000 or 10 years imprisonment or both. Section 794 provides generally that persons who communicate or deliver or attempt to communicate or deliver defense information to any foreign government with intent or reason to believe such information will be used to the injury of the United States or to the advantage of a foreign government are subject to imprisonment for not more than 20 years. If this statute is violated during wartime, the punishment is death or imprisonment for not more than 30 years. Both sections 793 and 794 provide like penalties for a conviction of conspiracy to violate either section. Section 798 provides generally that persons who communicate or otherwise make available to an unauthorized person or publisher, or use in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government any classified information relating to cryptography or communications intelligence are subject to a fine of \$10,000 or 20 years imprisonment or both.

Added 18 U.S.C. 641 & 2071

APPENDIX

STATUTES PROHIBITING DISCLOSURE OF OFFICIAL INFORMATION

Departmental reports to Congress (5 U.S.C. 1163, 10 U.S.C. 1582), insecticide formulae (7 U.S.C. 135a(c)(4), f(b), f(d)), cotton statistics (7 U.S.C. 472), tobacco statistics (7 U.S.C. 507), marketing agreements (7 U.S.C. 608d(2)), sugar production surveys (7 U.S.C. 1159), crop reports (7 U.S.C. 1373(c)), visa data (8 U.S.C. 1202(f)), census information (13 U.S.C. 9, 214), SEC information (15 U.S.C. 78x, 79v, 8032(b), 80a44, 80b10), Commerce reports (15 U.S.C. 176a, 190), FPC information (15 U.S.C. 717g, 825), unemployment compensation (18 U.S.C. 605), diplomatic codes and correspondence (18 U.S.C. 952), crop information (18 U.S.C. 190103), Reconstruction Finance Corp. (18 U.S.C. 1904), proprietary information (18 U.S.C. 1905, 26 U.S.C. 7213(b)), bank loans (18 U.S.C. 1906), land bank debtors (18 U.S.C. 1907), agricultural credits (18 U.S.C. 1908), civil service examinations (18 U.S.C. 1917(4)), trade secrets (21 U.S.C. 331(j)), IMF data (22 U.S.C. 286f(c)), foreign service officers (22 U.S.C. 987), exchange programs (22 U.S.C. 1436), income tax (26 U.S.C. 7213(a)(1), 7217), drug reports (26 U.S.C. 7237(e)), sugar tax (26 U.S.C. 7240), collective bargaining (29 U.S.C. 181(a)), patents (35 U.S.C. 122, 181, 186), veteran's claims (38 U.S.C. 3301), postal savings (39 U.S.C. 762), addict treatment (42 U.S.C. 260(d)), social security, excise and other tax information (42 U.S.C. 1306), confidential official information (44 U.S.C. 3508), Railroad Retirement Bd. claims (45 U.S.C. 362(d), (m)), Coast Guard inspection and discharge information (46 U.S.C. 234, 643(f)), common carrier data (46 U.S.C. 819, 49 U.S.C. 15(11), 320, 322, 913, 917, 1021), FCC information (47 U.S.C. 154, 220), communications transmitted (47 U.S.C. 605), handicapped voting (48 U.S.C. 55), shipping (49 U.S.C. 15(13)), Bureau of Mines (50 U.S.C. 139), Selective Service (50 U.S.C. App. 327), vessel procurement contracts (50 U.S.C. App. 1152(4), (5)), housing construction insurance (50 U.S.C. App. 1896), Defense Production Act reports (50 U.S.C. App. 2155), commodities (50 U.S.C. App. 2160(f)), and exports (50 U.S.C. App. 2406(c), 22 U.S.C. 414(b)).

18 USC 641

18 USC 2071

very recent decision, Halperin v. CIA (attached), the court found, again
~~that the courts could be with-~~
~~held despite its limited disclosure in a press briefing some years previous.~~
See also, Weissman v. CIA, Civ. No. 76-1566 (D.C. Cir 1977); Phillippi v.
CIA, 546 F. 2d 1009 (D.C. Cir 1976).

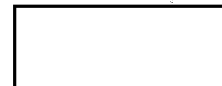
It would appear to be incongruous to refuse to provide protection for intelligence sources and methods, classified or not, when federal law protects many other types of official information for various policy reasons. For example, Section 955 of Title 7 of the U.S. Code provides that peanut statistic information shall be used only for limited purposes and that "[n]o publication shall be made by the Secretary [of Agriculture] whereby the data furnished by any person can be identified, nor shall the Secretary permit anyone other than the sworn employees of the Department of Agriculture to examine the individual reports." (June 24, 1936, ch. 745, §5, 49 Stat 1899). Citations to many additional statutes of this nature are provided in the attached appendix to this letter. The espionage statutes (18 U.S.C. 793-798) could be suggested as counterparts to these provisions with reference to intelligence sources and methods. However, many of these laws create an affirmative authority to protect information in addition to establishing a penalty for its disclosure. Furthermore, as you are aware, the espionage statutes are far from adequate, provide only an after-the-fact remedy, and require in their own right a showing of damage to the national defense which often must be premised upon a showing of proper classification. A further important distinction is that these other categories of information generally are required by law to be provided to the U.S. Government and the absence of specific authority to protect it, and even instances of disclosure, will not interfere in any significant way with its continued availability. Finally, as is illustrated by a review of the cases cited earlier, the courts are certain to interpret any retreat from the existing authority as a congressional sign that intelligence sources and methods no longer merit the careful treatment accorded them in the past.

It is for these reasons that we have urged the retention of at least the existing statutory authority to protect intelligence sources and methods in a form which will be effective and meet the requirements of 5 U.S.C. 552(b)(3) that such an authority not be discretionary or that it establish a particular criteria for withholding or refer to particular types of matters to be withheld. If the legislation continues in its present form, this responsibility should be treated separately from matters related to classification or declassification, and it would be desirable from both a bureaucratic and a legal point of view to repeat these provisions both in Title I for the Director of National Intelligence, and in Title IV for the Director of the Central Intelligence Agency. Furthermore, to emphasize the importance of this function, these provisions should not be mere grants of authority to these officials to protect intelligence sources and methods, but should take the form of an affirmative direction to provide such protection to such information.

9 used in the conduct of official U.S. Govt business

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SECURITY



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- (2) Official data is not to be copied or removed from the files of the Agency for release outside the Agency except by those officials authorized through chain of command by the Director of Central Intelligence.
- (3) Any employee who is served with a subpoena which may require the disclosure of official data to a court, the Congress, or a committee of the Congress will promptly inform the General Counsel of the serving of the subpoena, the nature of the information sought, and any circumstances which may bear upon the desirability of making available the official data, so that the General Counsel may advise the Director.
- (4) When not in use, official data must be kept in storage facilities which have been approved by the Director of Security. Consequently, documents which contain official data are not to be taken home or stored in private residences unless the use of an approved, secure facility has been authorized in advance by the Director of Security.
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SECURITY

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44 § 3508 PUBLIC PRINTING AND DOCUMENTS Ch. 35

Ch. 35

COORI

Historical and Revision Notes

Reviser's Note. Based on 44 U.S.Code, 1964 ed., Supp. II, § 423 (Dec. 24, 1942, ch. 811, § 4, 56 Stat. 1079).

Legislative History. For legislative history and purpose of Pub.L. 90-620, see 1968 U.S.Code Cong. and Adm.News, p. 4438.

Library References

Witnesses \Rightarrow 216.

C.J.S. Witnesses § 204.

Notes of Decisions

1. Authority for collection of information

Where the Director sought release of information from the Corps of Engineers to the Maritime Commission, the latter agency was entitled to such information

on meeting the conditions that it had "authority to collect the information itself" and such authority was "supported by legal provision for criminal penalties." 1949, 41 Op.Atty.Gen., September 28.

§ 3509. Plans or forms for collecting information; submission to Director; approval

A Federal agency may not conduct or sponsor the collection of information upon identical items, from ten or more persons, other than Federal employees, unless, in advance of adoption or revision of any plans or forms to be used in the collection—

(1) the agency has submitted to the Director the plans or forms, together with copies of pertinent regulations and of other related materials as the Director of the Bureau of the Budget has specified; and

(2) the Director has stated that he does not disapprove the proposed collection of information.

Pub.L. 90-620, Oct. 22, 1968, 82 Stat. 1304.

Historical and Revision Notes

Reviser's Note. Based on 44 U.S.Code, 1964 ed., Supp. II, § 424 (Dec. 24, 1942, ch. 811, § 5, 56 Stat. 1079).

Legislative History. For legislative history and purpose of Pub.L. 90-620, see 1968 U.S.Code Cong. and Adm.News, p. 4438.

§ 3510. Rules and regulations

The Director of the Bureau of the Budget may promulgate rules and regulations necessary to carry out sections 3501-3511 of this title.

Pub.L. 90-620, Oct. 22, 1968, 82 Stat. 1305.

Histo

Reviser's Note. Based on 4 1964 ed., Supp. II, § 425 (De ch. 811, § 6, 56 Stat. 1079).

§ 3511. Penalty f

A person failing to shall be subject to pena other penalty may be im or by the withdrawal o ment, or immunity, exce ment, or immunity is le revealed by the informa Pub.L. 90-620, Oct. 22, 1

Histo

Reviser's Note. Based on 4 1964 ed., Supp. II, § 427 (De ch. 811, § 8, 56 Stat. 1080).

Reviser's Note. Based on 44 U.S.Code, 1964 ed., Supp. II, § 422(e) (Dec. 24, 1942, ch. 811, § 3(e), 56 Stat. 1078).

Notes of Decisions

Under the provisions of this section, the Director of the Bureau of the Budget may require the Corps of Engineers, Department of the Army, to make available to the Maritime Commission

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